

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

ANDRE DAVID LEFFEBRE	§	
VS.	§	CIVIL ACTION NO. 1:07cv741
PATRICK A. CLARK, ET AL.	§	

MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Andre David Leffebvre, formerly an inmate at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought the above-styled lawsuit.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed as frivolous and for failing to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

Following the issuance of the magistrate judge's Report in this case, plaintiff filed an amended complaint, naming additional defendants. This memorandum considers the original complaint, as well as the amended complaint, along with the other pleadings filed in the case.

After careful consideration, the court concludes plaintiff's objections are without merit. To prove a conspiracy, plaintiff must prove an actual deprivation of a constitutional right. *Villanueva v. McInnis*, 723 F.2d 414, 418 (5th Cir. 1984); *Slavin v. Curry*, 574 F.2d 1256, 1261 (5th Cir. 1978). An allegation of conspiracy to deprive alone is insufficient. *Id.* Here, plaintiff has been unable to show any such deprivation of his constitutional rights. Additionally, "[m]ere conclusory allegations of conspiracy cannot, absent reference to material facts, state a substantial claim of federal conspiracy." *Hale v. Harney*, 786 F.2d 688, 690 (5th Cir. 1986).

#### O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. Further, to the extent plaintiff's complaint may be liberally interpreted as alleging causes of action under state law, the exercise of supplemental jurisdiction is declined in accordance with 28 U.S.C. § 1367(c). A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

So **ORDERED** and **SIGNED** this **21** day of **September, 2009**.



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Ron Clark, United States District Judge